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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/970,755	10/04/2001	Alvie L. Foster JR.	1966.ALC	1636

7590 09/17/2004
Thomas F. Roland
NATIONAL STARCH AND CHEMICAL COMPANY
P.O. Box 6500
Bridgewater, NJ 08807-0500

EXAMINER

SERGEANT, RABON A

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 09/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/970,755

Applicant(s)

FOSTER ET AL.

Examiner

Rabon Sergeant

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-18 is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-10, and 19-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 3, 2004 has been entered.

2. Claims 9 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The reference to the compounds of claims 9 and 10 as groups renders the claims indefinite. Within the chemical arts, a chemical group refers to a substituent that is present on or within a compound. For example, an amine group is a chemical group that is a substituent of an amine compound. Therefore, it is unclear how applicants' chemical groups relate to the claimed amine compounds. Do applicants intend that the word, "group", mean the same thing as compound? Applicants' response has not addressed this issue.

3. Claims 1-3, 5-10, and 19-23 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Support has not been provided for the amendments to claim 1. Firstly, despite applicants' response, it is not seen that the specification provides support for the "derived from" amendment. Furthermore, it is unclear what is meant by "derived from" in the context of the present invention. It is not seen that the examples clarify the issue, and it is noted that

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applicants state at page 3 of the specification that examples of the hydrophobic backbone are amines and diols. This disclosure does not appear to correlate to applicants' "derived from" language. Secondly, despite applicants' response, support has not been provided for the amendment stating that the resin contains no tertiary amine groups. Initially, it is noted that applicants have not distinguished a tertiary nitrogen from a tertiary amine, and it is not seen that any difference exists between the two terms. Applicants have stated that support for the amendment can be found within Schemes I and II of the specification; however, Scheme II clearly discloses tertiary amines within the resin. See pages 8 and 9. Therefore, applicants' arguments are not understood. Lastly, in view of this ambiguity associated with the presence of the tertiary nitrogen groups and the ambiguity with respect to applicants' use of the word, "group" (see paragraph 2 of this Office action), applicants are required to clarify the meaning of the specification at page 2, lines 11-13, wherein it is stated that the polydithiocarbamate resin contains no tertiary nitrogen groups.

Any inquiry concerning this communication should be directed to R. Sergent at telephone number (571) 272-1079.

R. Sergent
September 15, 2004


RABON SERGENT
PRIMARY EXAMINER